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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/394,660 09/13/99 ROBERTS B KN71020-37(3)

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EXAMINER

DEXTER, C

ART UNIT

PAPER NUMBER

3724

3

DATE MAILED:

03/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/394,660

Applicant(s)
Roberts et al.

Examiner
Clark F. Dexter

Group Art Unit
3724



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-25 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-25 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3724

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-3, 6-8, 10, 11, 15 and 16, drawn to a dispenser/dispensing installation with a specific housing configuration, classified in class 273.
 - II. Claims 1, 4-6, 10, 13-15 and 17-19, drawn to a dispenser/dispensing installation with a specific drive module, classified in class 225.
 - III. Claims 1, 6, 7, 9-12, 15 and 16, drawn to a dispenser/dispensing mechanism with a specific inner configuration, classified in class 273.
 - IV. Claims 20, 21, 23 and 24, drawn to a dispensing display unit including a plurality of dispensers having a specific housing configuration, classified in class 273.
 - V. Claims 20, 22 and 25, drawn to a dispensing display unit including a plurality of dispensers having a specific drive module, classified in class 225.
2. It is noted that claims 1, 6, 10 and 15 are common to groups I-III.
3. Claims 1-9 have been restricted such that the patentability of the invention is presumed to lie in the details of the particular group (e.g. the height-to-distance ratio of Group I). It is noted that if claim 1 as originally filed is part of an elected group and determined to be patentable, rejoinder of claims 1-9 will be considered.

Art Unit: 3724

4. Similarly, independent claims 10, 15 and 20 have been restricted in a similar manner with respect to the claims dependent therefrom.

5. The inventions are distinct, each from the other because of the following reasons:

Group I vs Groups II-V

6. Inventions of groups I and II are separate inventions. They are distinct because the invention of group I does not require the specific details of the drive module (e.g., a separator mechanism) of group II for patentability as evidenced by the omission thereof from group I, and the invention of group II does not require the specific details of the housing configuration (e.g., the height-to-length ratio) of group I for patentability as evidenced by the omission thereof from group II.

7. Inventions of groups I and III are separate inventions. They are distinct because the invention of group I does not require the specific details of the inner configuration (e.g., the orientation of the space with respect drive module) of group III for patentability as evidenced by the omission thereof from group I, and the invention of group III does not require the specific details of the housing configuration (e.g., the height-to-length ratio) of group I for patentability as evidenced by the omission thereof from group III.

8. Inventions of groups I and IV are separate inventions. They are distinct because the invention of group I does not require a plurality of dispensers or the housing configuration thereof of group IV for patentability as evidenced by the omission thereof from group I, and the invention

Art Unit: 3724

of group IV does not require the specific details of the housing configuration (e.g., the height-to-length ratio) of group I for patentability as evidenced by the omission thereof from group IV.

9. Inventions of groups I and V are separate inventions. They are distinct because the invention of group I does not require a plurality of dispensers or the specific drive module of group V for patentability as evidenced by the omission thereof from group I, and the invention of group V does not require the specific details of the housing configuration (e.g., the height-to-length ratio) of group I for patentability as evidenced by the omission thereof from group V.

Group II vs Groups III-V

10. Inventions of groups II and III are separate inventions. They are distinct because the invention of group II does not require the specific details of the inner configuration (e.g., the orientation of the space with respect drive module) of group III for patentability as evidenced by the omission thereof from group II, and the invention of group III does not require the specific details of the drive module (e.g., a separator mechanism) of group II for patentability as evidenced by the omission thereof from group III.

11. Inventions of groups II and IV are separate inventions. They are distinct because the invention of group II does not require a plurality of dispensers or the housing configuration thereof of group IV for patentability as evidenced by the omission thereof from group II, and the invention of group IV does not require the specific details of the drive module (e.g., a separator mechanism) of group II for patentability as evidenced by the omission thereof from group IV.

Art Unit: 3724

12. Inventions of groups II and V are separate inventions. They are distinct because the invention of group II does not require a plurality of dispensers of group V for patentability as evidenced by the omission thereof from group II, and the invention of group V does not require the specific details of the drive module (e.g., a separately operable transmission means) of group II for patentability as evidenced by the omission thereof from group V.

Group III vs Groups IV and V

13. Inventions of groups III and IV are separate inventions. They are distinct because the invention of group III does not require a plurality of dispensers or the housing configuration thereof of group IV for patentability as evidenced by the omission thereof from group III, and the invention of group IV does not require the inner configuration (e.g., the orientation of the space with respect drive module) of group III for patentability as evidenced by the omission thereof from group IV.

14. Inventions of groups III and V are separate inventions. They are distinct because the invention of group III does not require a plurality of dispensers or the specific details of the drive module of group V for patentability as evidenced by the omission thereof from group III, and the invention of group V does not require the inner configuration (e.g., the orientation of the space with respect drive module) of group III for patentability as evidenced by the omission thereof from group V.

Art Unit: 3724

Group IV vs Group V

15. Inventions of groups IV and V are separate inventions. They are distinct because the invention of group IV does not require specific details of the drive module of group V for patentability as evidenced by the omission thereof from group IV, and the invention of group V does not require the specific housing configuration of group IV for patentability as evidenced by the omission thereof from group V.

16. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

17. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species A - Figures 1-2;

Species B - Figures 5, 6 and 8-10.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, at least claims 1, 10, 15 and 20 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon,

Art Unit: 3724

including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

18. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

19. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Art Unit: 3724

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703)308-2187.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers for this group are: formal papers - (703)305-3579; informal/draft papers - (703)305-9835.

Communications via Internet e-mail regarding this application, other than those under 35 USC 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [rinaldi.rada@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 USC 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark Office on February 25, 1997 at 1195 OG 89.



Clark F. Dexter
Primary Examiner
Art Unit 3724

cf
March 16, 2000